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AUG 07 2007

OFFICE OF PETITIONS

In re Application of Gilbert :
Application No. 10/603,513 :
Filing Date: June 24, 2003 :
Attorney Docket No. ARC3080R1 :

Decision on Petition

This is a decision on the petition filed April 30, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted**.

Facts:

The declaration filed with the application gave power of attorney to all practitioners associated with Customer No. 27777. The declaration also stated all correspondence should be mailed to the address associated with Customer No. 27777.

On January 5, 2004, an "Associate Power of Attorney and Change of Correspondence Address was filed." The paper stated all future correspondence should be sent to:

Samuel E. Webb
Alza Corporation
c/o Johnson & Johnson
One Johnson & Johnson Plaza, WH3321
New Brunswick, NJ 08933
Customer No. 27777

The paper stated the practitioners associated with Customer No. 30766 should be recognized as Associate Attorneys of Record.

The address was changed to the address above except the new address omitted the "WH3321" portion of the address.

The associate power of attorney was not entered.

Effective June 25, 2004, the Office eliminated Associate Power of Attorney Practice (37 CFR 1.34(b) was eliminated).¹ However, the Office stated, "Any associate power of attorney filed before this date will continue to be effective.

A request to change the address of record was filed August 9, 2004. The request was signed by Adenike Adebiyi. Adebiyi is one of the practitioners associated with Customer No. 30766. The Office did not change the address of record.

A non-final Office action was mailed June 28, 2005. The non-final Office action set a three (3) month shortened statutory period for reply.

The Office action was returned undelivered by the USPS on July 8, 2005. The returned envelope has the delivery address marked out and is stamped with the words, "Return to Sender."

A reply was not filed in response to the June 28, 2005 Office action. Therefore, the application became abandoned on September 29, 2005.

A Notice of Abandonment was mailed April 19, 2007.

The instant petition was filed April 30, 2007.

Discussion:

Petitioner contends the Office mailed the June 28, 2005 Office action to an incorrect address because the Office failed to enter the change of address filed August 9, 2004.

The Office has never permitted applicants to give an Associate Power of Attorney to all attorneys associated with a Customer number. Therefore, the Office acted properly when it did not enter the Associate Power of Attorney filed January 5, 2004.

Since the Associate Power of Attorney was not entered, the August 9, 2004 request to change the address of record was not signed by a practitioner of record. Therefore, the Office acted properly when it failed to change the address of record.

The holding of abandonment will be withdrawn because the Office failed to properly enter the address submitted on January 5, 2004. The January 5, 2004 paper actually listed two different addresses. The Office would have acted properly if it had used either of the two addresses as the address of record. The first address was the address associated with Customer No. 27777. The Office did not enter the address associated with Customer No. 27777. The second address was

Samuel E. Webb
Alza Corporation
c/o Johnson & Johnson

¹ See Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (Jun. 22, 2004).

One Johnson & Johnson Plaza, WH3321
New Brunswick, NJ 08933
Customer No. 27777

The address of record was changed to the address above except for the omission of the "WH3321." As a result, the Office failed to send the June 28, 2005, to a correct address.

Since the June 28, 2005 Office action included an incorrect address and was returned by the USPS, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Current Power of Attorney and Address of Record:

The only practitioners of record at this time are the practitioners associated with Customer No. 27777.

The address of record has been changed to the address associated with Customer No. 27777.

A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record. Therefore, if petitioner wishes for future mail to be sent to the address on the petition, a request to change the address of record signed by a practitioner of record must be filed.

Action to be taken by Technology Center Art Unit 3621:

Technology Center Art Unit 3621 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new copy of the June 28, 2005 Office action to the address of record.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.


Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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